SCOTTISH STATUTORY INSTRUMENTS

2026 No. 287

HARBOURS, DOCKS, PIERS AND FERRIES

The Argyll and Bute Council (Oban) Harbour Revision Order 2026

Made - - - -	*22nd October 2026*
Coming into force - -	*23rd October 2026*

CONTENTS

PART 1
Preliminary

1. Citation and commencement
2. Interpretation
3. Incorporation of the Harbours, Docks and Piers Clauses Act 1847

PART 2
Duties and Powers of the Council

4. Limits of harbour
5. General powers of the Council
6. Powers with respect to land, buildings, harbour facilities, etc.
7. Power to appropriate parts of the harbour, etc.
8. Power to lease, etc.
9. Power to dredge
10. Restriction of works and dredging
11. Declaration of draught, etc. of vessel
12. Provisions as to damage
13. Obstruction of harbour master, etc.
14. Power to enter into arrangements to provide supplies
15. Moorings
16. Removal of obstructions other than vessels, vehicles or wreck
17. Power to remove goods
18. Publication of Council's annual statement of accounts

PART 3
Harbour Regulations

19. Byelaws

20. Confirmation of byelaws
21. General directions to vessels
22. Publication of general directions
23. Special directions to vessels
24. Failure to comply with directions
25. Enforcement of special directions
26. Master's responsibility in relation to directions
27. Vessels adrift
28. Boarding of vessels

PART 4
Financial provisions

29. Charges other than ship, passenger and goods dues
30. Liability for charges
31. Power to grant exemptions, rebates, etc., in respect of charges
32. Account of goods
33. Security for charges
34. Liens for charges
35. Refusal to pay charges for landing place, etc.
36. Exemptions from charges
37. Conditions as to payment of charges
38. Reserve funds

PART 5
Miscellaneous

39. Saving for Commissioners of Northern Lighthouses
40. Saving for CMAL and ferry operator
41. Crown rights
42. Repeals and revocations

SCHEDULE — Repeals

The Scottish Ministers ("the Ministers") make the following Order in exercise of the powers conferred by section 14(1), (2A) and (3) of the Harbours Act 1964(**a**) and all other powers enabling them to do so.

In accordance with section 14(1) of that Act, this Order is made in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties, for achieving objects specified in Schedule 2 to that Act(**b**).

(**a**) 1964 c. 40; section 14 was relevantly amended by the Transport Act 1981 (c. 56), schedule 6, paragraphs 2, 3, 4(1) and 14 and schedule 12 and the Transport and Works Act 1992 (c. 42), schedule 3, paragraph 1. See sections 14(7) and 57(1) of the Harbours Act 1964 for the definitions of "the appropriate Minister" and "the Minister". The functions of the Minister of the Crown were transferred to the Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
(**b**) Schedule 2 was relevantly amended by the Transport and Works Act 1992 (c. 42), Schedule 3, paragraph 9.

In accordance with section 14(2) of the Act—

(a) this Order is made following a written application to Ministers by Argyll and Bute Council ("the Council") being the authority engaged in improving, maintaining or managing the harbour; and

(b) except in so far this Order is made for achieving objects mentioned in section 14(2A) of the Act, the Ministers are satisfied that the making of this Order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner.

In accordance with section 14(2A) of that Act, the objects for achieving which this Order is made include repealing superseded, obsolete or otherwise unnecessary statutory provisions of local application affecting the harbour.

The provisions of paragraph 17 of that schedule have been satisfied.

In accordance with paragraph 19(1) of that Schedule, the Ministers have considered any objections made and not withdrawn.

In accordance with paragraph 19(6) of that schedule, Ministers have decided to make this Order with modifications which do not appear to Ministers substantially to affect the character of the Order.

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Argyll and Bute Council (Oban) Harbour Revision Order 2026 and comes into force on the day after the day on which it was made.

Interpretation

2. In this Order—

"the 1847 Act" means the Harbours, Docks and Piers Clauses Act 1847(**a**);

"the 1862 Act" means the Pier and Harbour Orders Confirmation Act 1862(**b**);

"the 1864 Act" means the Pier and Harbour Orders Confirmation Act 1864(**c**);

"the 1896 Act" means the Pier and Harbour Orders Confirmation Act 1896(**d**);

"the 1897 Act" means the Callander and Oban Railway Act 1897(**e**);

"the 1964 Act" means the Harbours Act 1964(**f**);

"the 1974 Act" means the Scottish Transport Group (Oban Quay) Order Confirmation Act 1974(**g**);

"the 1992 Act" means the Transport and Works Act(**h**);

(**a**) 1847 c. 27.
(**b**) 1862 c. 45.
(**c**) 1864 c. 93.
(**d**) 1896 c. 117.
(**e**) 1897 c. 179.
(**f**) 1964 c. 40.
(**g**) 1974 c. 34.
(**h**) 1992 c. 42.

"the 1994 Act" means the Local Government etc. (Scotland) Act 1994(**a**);

"the 1995 Act" means the Merchant Shipping Act 1995(**b**);

"the 1998 Act" means the Scotland Act 1998(**c**);

"the 2007 Act" means the Transport and Works (Scotland) Act 2007(**d**);

"CMAL" means Caledonian Maritime Assets Limited, a company incorporated in Scotland with registered number SC001854 and having its registered office at Municipal Buildings, Fore Street, Port Glasgow, Renfrewshire, PA14 5EQ;

"Commissioners of Northern Lighthouses" means the general lighthouse authority for Scotland, a body corporate constituted by section 193 and schedule 8 of the 1995 Act;

"the Council" means Argyll and Bute Council, a local authority established by the 1994 Act and having its principal place of business at Kilmory, Lochgilphead, Argyll, PA31 8RT;

"deposited plans" means the plans referred to in article 4 which are bound together, signed and dated with reference to this Order and marked "Argyll and Bute Council (Oban) Harbour Revision Order 2024 Plans" copies of which have been deposited at the offices of the Ministers at the Scottish Government, Victoria Quay, Edinburgh EH6 6QQ and at the offices of the Council;

"ferry operator" means the operator (if any), from time to time, of the Clyde and Hebrides Ferry Services or any similar replacement service on behalf of the Ministers;

"general direction" means a direction given by the Council under article 21;

"goods" includes equipment of any description;

"government department" includes any part of, or any member of the staff of, the Scottish Administration which shall have the same meaning as in section 126(6) of the 1998 Act;

"harbour" means the harbour at Oban comprised within the harbour limits;

"harbour limits" means the limits of the harbour as defined in article 4;

"harbour master" means any person appointed as such by the Council and includes that person's deputies and assistants and any person for the time being authorised by the Council to act, either generally or for a specific purpose, in the capacity of harbour master;

"harbour premises" means the quays, berths, piers, pontoons, moorings, landing places, and all other works, buildings and other structures and premises within the harbour limits from time to time vested in or occupied or administered by the Council as part of the harbour undertaking;

"harbour undertaking" means the harbour undertaking of the Council at Oban;

"land" includes land covered by water, any interest in land and any servitude or right in, to or over land;

"master" in relation to a vessel means any person for the time being having or taking the command, charge or management of the vessel;

"mean high water springs" means the level of mean high-water springs;

"mooring" includes any buoy, pile, post, chain, pillar, jetty for use as an appurtenance to a dwelling or like apparatus or structure used for the mooring of vessels;

"personal watercraft" means a watercraft intended for sports and leisure purposes of less than 4 metres in hull length which uses a propulsion engine having a water jet pump as its primary source of propulsion and designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull;

"railway pier" means the section of the harbour at Oban as defined in article 4;

(**a**) 1994 c. 39.
(**b**) 1995 c. 21.
(**c**) 1998 c. 46.
(**d**) 2007 asp 8.

"relevant ferry services" means any services associated with the delivery of the Clyde Hebrides Ferry Services or any similar replacement service on behalf of the Ministers;

"relevant person" in relation to any property, rights or interests to which section 90B(5) of the 1998 Act applies means the person who manages that property, or those rights and interests;

"special direction" means a direction given by the harbour master under article 23;

"vessel" means a ship, boat, raft or craft of any description however propelled or moved, and includes a displacement craft, a non-displacement craft, a personal watercraft, a sea plane on the surface of the water, a hydrofoil vessel or any other amphibious vehicle and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily); and

"works" means any permanent or temporary manmade structures situated within the harbour limits.

Incorporation of the Harbours, Docks and Piers Clauses Act 1847

3.—(1) Sections 1 to 4, 33 to 35, 37 to 39, 42, 44, 46, 51, 54, 55, 63 to 65 and 74 of the 1847 Act are incorporated with this Order subject to the modifications stated in paragraph (2).

(2) In construing the provisions of the 1847 Act as incorporated with this Order—

(a) the expression "the special Act" means this Order, the expression "the undertakers" means the Council and the expression "the harbour, dock, or pier" shall mean the harbour;

(b) for the definition of the word "vessel" in section 3 (interpretations in this and the special Act) there shall be substituted the definition of that word in article 2;

(c) section 63 shall be read and have effect as if for the words from "be liable to" to the end of the section there were substituted the words "be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale"; and

(d) section 65 (harbour master may remove vessel for purpose of repairing harbour or dock if the master neglects or refuses to do so) shall have effect subject to the omission of the words from "Provided always" to the end of the section.

PART 2

Duties and Powers of the Council

Limits of harbour

4.—(1) The Council shall exercise jurisdiction as a harbour authority, and the powers of the harbourmaster shall be exercisable within the harbour, the limits of which shall comprise the area below the level of mean high water springs between the landward limits described in paragraph (2) and the seaward limits described in paragraph (3), excluding the railway pier—

(a) The landward limits comprise a straight line across Kerrera Sound between the points—

(i) E183320 N728235; and

(ii) E182932 N728565.

(b) The seaward limits comprise straight lines joining the points—

(i) E184103 N731226;

(ii) E183223 N731271;

(iii) E183249 N731787;

(iv) E184025 N732862;

(v) E184744 N732825; and

(vi) E185279 N732259.

(2) The railway pier comprises the area enclosed within a continuous line joining the following points—

(i) E185518 N729721;

(ii) E185518 N729775;

(iii) E185498 N729788;

(iv) E185513 N729841;

(v) E185551 N729900;

(vi) E185600 N729946;

(vii) E185700 N730016;

(viii) E185760 N730031;

(ix) E185828 N729966; and

(x) E185838 N729919;

(xi) then following the level of mean high water springs back to the point of commencement described in sub-paragraph (a)(i).

(3) In the event of any discrepancy between the harbour limits as described in this article and the boundaries shown on the deposited plans, the description contained within this article shall prevail.

General powers of the Council

5.—(1) The Council may take such steps from time to time as they consider necessary or expedient for the improvement, maintenance and management of the harbour and the accommodation and facilities afforded in or connected with the harbour.

(2) For those purposes, and without affecting the generality of paragraph (1), the Council may—

(a) improve, maintain, regulate, manage, mark and light the harbour and provide harbour facilities in the harbour (including facilities for the supply by the Council of fuel for vessels);

(b) construct, reconstruct, extend, enlarge, alter, replace, relay or demolish structures and works in the harbour;

(c) subscribe for or acquire shares or securities of any body corporate;

(d) maintain such reserve funds as they think fit;

(e) invest any sums not immediately required for the purposes of the harbour;

(f) turn their resources to account so far as not required for those purposes; and

(g) do all other things which in their opinion are necessary or expedient to facilitate the proper carrying on or development of the harbour.

(3) The Council shall, in consultation with CMAL, implement an appropriate safety management system for the harbour.

(4) The Council shall not prevent (except in case of emergency) or unreasonably restrict access to the railway pier.

(5) This article does not affect any powers of the Council under or by virtue of any other enactment (including this Order).

Powers with respect to land, buildings, harbour facilities, etc.

6.—(1) The Council may for the purposes of the undertaking acquire land, whether by way of purchase, exchange, lease or otherwise.

(2) Without affecting article 8, the Council may for such price and upon such terms and conditions and subject to such restrictions and for such period as it thinks fit sell, lease, exchange

or otherwise dispose of any land, building or harbour facilities belonging to it which is no longer required by the Council for the purposes of the harbour.

(3) The Council may for the purposes of the harbour undertaking manage, use or develop land belonging to it (whether under its ownership or lease), as it thinks fit.

Power to appropriate parts of the harbour, etc.

7.—(1) Notwithstanding anything in this or any other statutory provision of local application, the Council may from time to time set apart or appropriate any part of the harbour, or any lands, works, buildings, machinery, equipment or other property of the Council in the harbour, for the exclusive, partial or preferential use or accommodation for any particular trade, activity, person, vessel or class of vessels or goods, subject to the payment of such reasonable charges (other than ship, passenger and goods due), and to such terms and conditions, as the Council thinks fit.

(2) No person or vessel shall, otherwise than in accordance with the setting apart or appropriation, make use of any part of the harbour, or any lands, works, buildings, machinery, equipment or other property, so set apart or appropriated without the consent of the harbour master.

(3) The harbour master or may order any person or vessel contravening paragraph (2) to leave or be removed from the site of the contravention.

(4) Section 58 of the 1847 Act shall extend and apply with appropriate modifications to any vessel moored or otherwise positioned in contravention of paragraph (2) above.

(5) In exercising its powers to appropriate or set apart any part of the harbour under paragraph (1), the Council shall have regard to the facilitation of—

(a) the public right of navigation in the harbour; and

(b) any public rights of way affecting the harbour,

(6) such that the Council shall not restrict such rights more than is necessary for the purpose for which the part of the harbour is appropriated or set apart.

Power to lease, etc.

8. The Council may at any time lease or grant the use or occupation of, or any right or interest in, over or relating to, any lands, works, buildings, equipment or other property forming part of the harbour for such period or periods and on such terms and conditions as may be agreed between the Council and the persons taking the same.

Power to dredge

9.—(1) The Council may from time to time deepen, widen, dredge, scour, cleanse, alter and improve the bed and foreshore of the harbour and the seaward approaches thereto.

(2) The Council may use, appropriate or dispose of any material (other than any wreck within the meaning of Part IX of the 1995 Act) from time to time dredged or removed by it from the harbour.

(3) No dredged materials shall be deposited—

(a) in contravention of the provisions of any enactment as respects the disposal of waste; or

(b) in any place below the level of mean high water springs except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Ministers.

Restriction of works and dredging

10.—(1) No person other than the Council shall in the harbour—

(a) construct, place, alter, renew or maintain any works; or

(b) dredge,

unless that person has contracted with or been licensed by the Council to do so.

(2) Any person who contravenes this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) The Council may by notice require a person who contravenes this article to remove, abate or rectify, within a reasonable time specified in the notice, any work, operation or omission to which the contravention relates and to restore the site thereof to its former condition; and if that person fails to comply with the notice the Council may carry out the works so required and may recover from that person as a debt any expenses incurred by it in doing so.

(4) This article shall not apply in respect of dredging carried out by CMAL, its contractors or agents in the approaches to the railway pier, but before carrying out any dredging in the approaches to the railway pier, CMAL shall consult with the Council.

Declaration of draught, etc. of vessel

11.—(1) The master of a vessel entering, leaving or intending to enter or leave the harbour shall, if required to do so by the harbour master, state the overall length and maximum draught of their vessel.

(2) The master of a vessel who in response to a requirement under paragraph (1) without reasonable excuse fails to give the information or gives incorrect information shall, without prejudice to any right of the Council to compensation for loss or damage occasioned thereby, be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) For the purposes of this article "draught" in relation to a hovercraft or hydrofoil vessel means its draught when afloat and not supported on a cushion of air or on foils or by any other means and in relation to a seaplane means its draught when afloat.

Provisions as to damage

12.—(1) This article applies to any damage caused to any work or property of the Council in the harbour—

(a) by any person who contravenes any provision of this Order or any other enactment relating to the harbour; or

(b) by a vessel, whether or not as a result of any contravention of any such provision.

(2) Where damage to which this article applies has occurred, the Council may detain any vessel which caused the damage, and any other property belonging to or in the charge of the person who caused the damage, until the cost of the damage has been paid or until reasonable security has been given to the Council.

(3) Subject to any entitlement to limit liability provided in any other enactment, the owner of any vessel causing damage to which this article applies and the master (if it was through their intentional act or failure to act that the damage was done) shall be liable for the cost of the damage.

(4) This article does not affect—

(a) any right of the owner or master of a vessel to recover the cost of damage from any person whose act, or failure to act, gave rise to the damage;

(b) any right of the Council under any other enactment, agreement or rule of law; or

(c) the criminal liability of any person under any provision of this Order, or any byelaw made in relation to the harbour by the Council.

Obstruction of harbour master, etc.

13. Any person who intentionally obstructs the harbour master or any other person carrying out duties under this Order or any enactment relating to the harbour shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Power to enter into arrangements to provide supplies

14. The Council may make arrangements for the purpose of providing and supplying fuel, ice and such other requirements as may be made available to vessels using the harbour and in respect of the supply, laying down and maintaining of pipelines, storage tanks, plants, equipment and other apparatus and the execution of ancillary and necessary works for that purpose within the harbour.

Moorings

15.—(1) The Council may provide, place, lay down, maintain, renew, use or remove such moorings, buoys and similar apparatus within the harbour as it considers necessary or desirable for the convenience of vessels.

(2) Before providing, placing or laying down moorings, buoys and similar apparatus under paragraph (1), the Council shall publish on its website notice of its intention to do so and allow a reasonable period for members of the public and interested persons to make written representations, and shall have due regard to such representations.

(3) The Council may demand, receive and recover in respect of any vessel using any of the moorings provided by the Council under paragraph (1), or moored to land owned or leased by the Council, such reasonable charges as the Council may from time to time prescribe.

(4) The Council may compound with any person with respect to the payment of the charges prescribed under paragraph (3).

(5) The Council may from time to time grant a licence to any person to place, lay down, maintain, renew and use moorings, buoys and similar apparatus for vessels in the harbour.

(6) Before granting a licence under paragraph (5), the Council shall publish on its website notice of any application for such a licence and allow a reasonable period for members of the public and interested persons to make written representations, and shall have due regard to such representations.

(7) The Council shall not provide, place or lay down moorings, buoys and similar apparatus, or grant a licence for the same purpose, where doing so would impede access to and from the railway pier.

(8) Any person who, without reasonable excuse, places, lays down, maintains, renews or uses a mooring, buoy or similar apparatus for vessels within the harbour except under and in accordance with the terms and conditions of a licence granted under this article, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) Any licence granted under paragraph (5) shall be valid only for a period of one year, or such longer period as seems to the Council to be desirable in the circumstances, commencing with the date on which it takes effect.

(10) The Council may charge a reasonable fee for the grant of a licence under this article.

Removal of obstructions other than vessels, vehicles or wreck

16.—(1) The Council may remove anything which is causing or likely to become an obstruction or impediment to the proper use of any part of the harbour other than—

(a) a vessel or vehicle; or

(b) a wreck within the meaning of Schedule 11ZA of the 1995 Act.

(2) If anything removed by the Council under paragraph (1) is known to the Council to be, or is so marked as to be readily identifiable as, the property of any person, the Council shall within one month of its coming into its custody give notice, in accordance with paragraph (6), to that person and if possession of the thing is not retaken within the period specified in, and in accordance with the terms of, the notice it shall at the end of that period become the property of the Council.

(3) If the ownership of anything removed by the Council under paragraph (1) is not so known or marked and the ownership cannot within 3 months of its coming into the custody of the Council be proved to the Council's reasonable satisfaction, it shall become the property of the Council.

(4) The Council may at such time and in such manner as it thinks fit dispose of anything which is of a perishable or obnoxious nature or the custody of which involves unreasonable expense or inconvenience notwithstanding that it has not vested in the Council under this article, and if it is sold the proceeds of sale shall be applied by the Council in payment of the expenses incurred by it under this article in relation to the thing, and any balance—

(a) shall be paid to any person who within 3 months from the time when the thing came into custody of the Council proves to its reasonable satisfaction that such person was the owner thereof at that time; or

(b) if within the said period no person proves ownership at the said time, shall become the property of the Council.

(5) If anything removed under this article—

(a) is sold by the Council and the proceeds of sale are insufficient to reimburse it for the amount of the expenses incurred in the exercise of its powers of removal; or

(b) is unsaleable,

the Council may recover the deficiency or the whole of the expenses, as the case may be, from the person who was the owner when the thing removed came into the custody of the Council or who was the owner at the time of its abandonment or loss.

(6) A notice given under paragraph (2) shall specify the thing removed and state that upon proof of ownership to the reasonable satisfaction of the Council, possession may be retaken at a place specified in the notice within the time specified therein, being not less than 14 days after the date when the notice is served.

(7) The Council shall not under the powers of this article move anything placed or constructed by any person under the provisions of any enactment or of a consent or licence.

Power to remove goods

17.—(1) If any goods are left on or in any part of the harbour premises the Council may require the owner of the goods to remove them; and if the goods are not so removed within six hours after such requirement the Council may cause them to be removed to the Council or any other public warehouse or store; and such removal shall be carried out at the expense and risk of the owner.

(2) Notwithstanding such removal on behalf of the Council, the goods shall be subject to a lien for the cost of removal, and for any charges payable to the Council by the owner in respect of the goods under Part 4 of this Order.

Publication of Council's annual statement of accounts

18. The Council shall prepare an annual statement of accounts as at the end of each financial year. The Council shall make a copy of the annual statement of accounts available as part of the Council's Annual Accounts for a period of twelve months , at the chief office of the Council, and on a website maintained by the Council for inspection free of charge by members of the public and shall, subject to the payment of a reasonable charge, supply a copy of the statement to any person who requests to be supplied with a copy.

PART 3

Harbour Regulations

Byelaws

19.—(1) The Council may from time to time make byelaws for the efficient management and regulation of the harbour.

(2) Without prejudice to the generality of paragraph (1), byelaws made under this article may provide for—

(a) regulating the use, operation and superintendence of the harbour and the docks, berths, wharves, quays, piers, jetties, landing places, equipment, works and conveniences (including moorings);

(b) regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods, including marine creatures of any type, within the harbour;

(c) preventing damage or injury to any vessels, goods, vehicles, plant, machinery, property or persons within the harbour;

(d) regulating the conduct of all persons in the harbour not being members of a police force or officers or servants of the Crown whilst in the exercise of their duties;

(e) preventing and removing obstructions or impediments within the harbour;

(f) regulating the holding of regattas and other public events in the harbour;

(g) regulating or prohibiting the activities in the harbour of divers, surfers, water skiers and other persons engaged in similar recreational pursuits;

(h) prohibiting persons in or entering the harbour, or any part thereof, from smoking therein;

(i) regulating the movement and parking of vehicles within the harbour;

(j) regulating the exercise of the powers vested in the harbour master, as provided for in the 1847 Act, this Order and any other relevant enactment;

(k) regulating the hours during which any gates, entrances or outlets to or from the harbour or any part of the harbour shall be open;

(l) prohibiting or regulating the discharge or deposits of ballast, ashes, refuse, rubbish or other material (including any polluting liquid) into or upon the harbour;

(m) regulating the use of cranes, weighing machines, weights and measures belonging to the Council, and the duties and conduct of weighers and meters employed by the Council;

(n) regulating or preventing the use of fires and lights within the harbour;

(o) the conservation of the natural beauty of all or any part of the harbour or of any of the fauna, flora or geological or physiographical features in the harbour and all other natural features; and

(p) the conservation, preservation or redevelopment of any buildings, plant or other artificial features of the harbour of historic or architectural significance.

(3) Byelaws made under this article may—

(a) provide for imposing upon persons found guilty on summary conviction of offending against them, or against any condition, requirement or direction imposed, made or given thereunder on summary conviction, fines not exceeding level 3 on the standard scale;

(b) relate to the whole of the harbour or harbour premises, or to any part thereof; or

(c) make different provisions for different parts of the harbour or harbour premises, or in relation to different classes of vessels.

Confirmation of byelaws

20.—(1) Byelaws made by the Council under this Order shall not come into operation until they have been confirmed by the Ministers.

(2) At least one month before an application for confirmation of byelaws is made by the Council to the Ministers, notice of the intention to apply for confirmation and of the place at which and times during which a copy of the byelaws shall be open to inspection shall be published as follows—

(a) once in the Edinburgh Gazette; and

(b) once in each of two successive weeks in a newspaper circulating in the area in which the harbour is situated.

(3) During a period of at least one month before application is made for confirmation of the byelaws, a copy of the byelaws shall be kept by the Council at the principal office of the Council and at the harbour office and will be available for inspection without payment.

(4) The Council shall supply a copy of the byelaws or of part of the byelaws to a person who shall apply for it.

(5) During the period of one month after the date of first publication of any notice required by paragraph (2), any person may make in writing to the Ministers any objection to or representation respecting the byelaws to which the notice relates.

(6) Subject to paragraph (7), the Ministers may confirm the byelaws in the form submitted to them with such modifications as they think fit or may refuse to confirm them.

(7) Where the Ministers propose to make a modification that appears to them to substantially affect the character of the byelaw they shall inform the Council and require it to take any steps the Ministers consider necessary for informing persons likely to be concerned with the modification, and the Ministers shall not make decision under paragraph (6) until such period has elapsed as the Ministers think reasonable for consideration of, and comment upon, the proposed modification by the Council and by other persons who have been informed of it.

(8) In making a decision under paragraph (6) the Ministers shall have regard to any comments that may have been received under paragraph (7).

(9) A copy of the byelaws when confirmed shall be printed and deposited by the Council at the principal office of the Council and shall at all reasonable hours be open to public inspection without payment, and a copy of the byelaws shall on application be furnished to any person on request.

General directions to vessels

21.—(1) The Council may, after consultation with the Royal Yachting Association Scotland, the UK Chamber of Shipping, CMAL, the Commissioners of Northern Lighthouses, the Maritime and Coastguard Agency and such other persons as the Council considers are representative of users of the harbour and in order to promote or secure conditions conducive to the ease, convenience or safety of navigation or the safety of persons, give directions for any of the following purposes—

(a) designating areas, routes or fairways in the harbour which vessels are to use, or refrain from using for movement, mooring or anchorage;

(b) securing that vessels move only at certain times or during certain periods;

(c) securing that vessels make use of descriptions of aids to navigation specified in the direction;

(d) prohibiting entry into or navigation within any of the main fairways during any temporary obstruction thereof;

(e) requiring the master of a vessel entering, leaving or intending to enter or leave the harbour to state the length overall and draught maximum of their vessel;

(f) prohibiting entry into or movement in the harbour by vessels at times of poor visibility due to the weather or to the presence of dust or smoke provided that no such direction shall prevent the entry into the harbour or the approaches of any vessel seeking refuge from stress of weather or other emergency;

(g) regulating the navigation, berthing, mooring and speed of vessels within the harbour;

(h) regulating the navigation, berthing, mooring, speed and movement of vessels within the harbour engaged in regattas and other public events in the harbour;

(i) specifying the precautions to be taken in respect of apparatus, machinery and equipment;

(j) prohibiting or restricting use of fires or lights;

(k) regulating the admission to, and the movement within, and the departure of vessels from, the harbour, or the removal of vessels, and for the good order and government of vessels whilst within the harbour;

(l) regulating the use of ferries within the harbour;

(m) regulating the use within the harbour of yachts, sailing boats, sailboards, rowing boats, rowing punts, pleasure craft, personal watercraft, tugs and other small craft;

(n) regulating the launching of vessels within the harbour; and

(o) making the carrying out of specified harbour operations, or the conduct of persons in the harbour, subject to the approval (with or without conditions), control or direction of the harbour master, and authorising the harbour master to take such action as may be reasonably required in default of compliance with any such condition, control or direction.

(2) A general direction under this article may apply—

(a) to all vessels or to a class of vessels designated, or for which the designation is provided for, in the direction;

(b) to the whole of the harbour or to a part designated, or for which the designation is provided for, in the direction; or

(c) at all times or at times designated, or for which the designation is provided for, in the direction,

and every direction under this article shall specify the extent of its application in relation to the matters referred to in sub-paragraphs (a), (b) and (c).

(3) The Council may after consultation with the Royal Yachting Association Scotland, the UK Chamber of Shipping, CMAL, the Commissioners of Northern Lighthouses, the Maritime and Coastguard Agency and such other persons as the Council considers are representative of users of the harbour revoke or amend any general direction.

Publication of general directions

22.—(1) Except in an emergency, the Council shall publish notice of the giving of a general direction and of any amendment or revocation of a general direction as soon as practicable once in a newspaper circulating in the locality of the harbour, and on a website maintained by the Council, and, if the notice relates to the giving or amendment of a general direction, the notice shall state a place at which copies of the general direction or the amended general direction (as the case may be) may be inspected.

(2) In an emergency, notice of the giving of a general direction or of the amendment or revocation of a general direction may be given in any manner considered by the Council to be appropriate.

Special directions to vessels

23.—(1) The harbour master may give a special direction under this article—

(a) requiring a vessel anywhere within the harbour to comply with a requirement made in or under a general direction;

(b) regulating the time at which, the manner in which and speed at which a vessel shall enter into, go out of, move within or lie in or at the harbour;

(c) for securing that a vessel move only at certain times or during certain periods;

(d) prohibiting the mooring of a vessel in any particular part or parts of the harbour;

(e) regulating or requiring the movement, mooring or unmooring of a vessel;

(f) regulating the manner in which a vessel takes in or discharges (from ship to shore or shore to ship or ship to ship) passengers, cargo, fuel, water, ship's stores or ballast in the harbour; and

(g) requiring the removal from any part of the harbour of a vessel if—

(h) it is on fire;

(i) it is in such condition as to be liable to become immobilised or waterlogged, or to sink, or to constitute a danger to life (including wildlife) or property;

(j) it is making an unlawful use of the harbour or interfering with the reasonable use or enjoyment of the harbour by other vessels or persons; or

(k) its removal is necessary to enable maintenance or repair work to be carried out at harbour premises or to premises adjacent thereto.

(2) A special direction may be given in any manner considered by the harbour master to be appropriate.

(3) The harbour master may revoke or amend a special direction.

Failure to comply with directions

24.—(1) A person who fails without reasonable excuse to comply with a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) A person who fails without reasonable excuse to comply with a general direction, or who breaches an approval, condition or requirement of a general direction, is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Enforcement of special directions

25.—(1) Without prejudice to any other remedy available to the Council, if a special direction is not complied with within a reasonable time, the harbour master may, where practicable, put persons on board the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

(2) If there is no-one on board a vessel to comply with a special direction, the harbour master may proceed as if the direction had been given and not complied with; but the harbour master shall not do so unless, after reasonable enquiry has been made, the master of the vessel cannot be found.

(3) Reasonable expenses incurred in the exercise of the powers conferred by this article shall be recoverable by the Council from the owner of the vessel as if they were a charge of the Council in respect of the vessel.

Master's responsibility in relation to directions

26. The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to that vessel, persons on board, its cargo or any other person or property.

Vessels adrift

27.—(1) The owner or master of a vessel adrift in the harbour shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) It shall be a defence for the owner or master of a vessel charged with an offence under paragraph (1) to prove that the vessel did not become adrift as the result of any neglect or default on the part of that person.

Boarding of vessels

28. The harbour master may enter and inspect a vessel in the harbour, subject to producing their authority where requested—

(a) for the purposes of any enactment relating to the Council or of any byelaw of the Council relating to its functions as the harbour authority in respect of the harbour undertaking, including the enforcement thereof; or

(b) to prevent or extinguish fire,

but, except in an emergency, no entry shall be made under this article without prior written notice first having been given to the owner or the person appearing to have charge of the vessel, at least 24 hours in advance; and the written notice shall have annexed to it a copy of this article.

PART 4

Financial provisions

Charges other than ship, passenger and goods dues

29.—(1) The Council may demand, take and recover in respect of any dracone or floating dock, crane, rig, drilling rig or floating plant, or any other vessel which is not a ship as defined by section 57 of the 1964 Act, entering, using or leaving the harbour such reasonable charges as it thinks fit, and sections 30 and 31 of that Act shall with any necessary modifications apply to the charges authorised by this paragraph as they apply to ship, passenger and goods dues.

(2) The Council may make such reasonable charges for services and facilities provided by it or on its behalf in relation to the harbour as it may from time to time determine.

(3) In paragraph (2) "charges" does not include ship, passenger and goods dues as defined by section 57 of the 1964 Act.

Liability for charges

30.—(1) Charges payable to the Council on or in respect of—

(a) a vessel, shall be payable by the owner or master of the vessel; and

(b) goods, shall be payable by the owner, consignee or shipper of the goods.

(2) Where a charge payable to the Council may be recovered from more than one person the persons from whom it is recoverable shall be jointly and severally liable.

Power to grant exemptions, rebates, etc., in respect of charges

31.—(1) The Council may confer total or partial exemptions from, allow rebates to or make compositions with any person with respect to charges, and may vary or extinguish any such exemption or composition.

(2) Nothing in section 30 of the 1964 Act shall require the Council to include in the list of ship, passenger and goods dues kept at the harbour office, as required by subsection (1) of that section, charges reduced by a rebate allowed on, or subject to a compounding arrangement in respect of, a due included in the said list.

Account of goods

32.—(1) When goods are to be unshipped within the harbour the master of the vessel containing them shall—

(a) within 12 hours of the arrival of the vessel within the harbour, deliver to the harbour master the name of the consignee of the goods and a copy of the bill of lading or manifest or, if part only of the cargo is to be unshipped, a sufficient account in writing of the goods to be unshipped; and

(b) if required so to do by the harbour master, give to the harbour master 12 hours' notice of the time at which any such goods are to be unshipped.

(2) If any difference arises between the harbour master and a master or the owner of goods or consignee concerning the weight or quantities of goods in respect of which charges may be payable, the harbour master may cause the goods to be weighed or measured and may detain a vessel containing such goods until the goods have been so weighed or measured.

(3) Any person who contravenes or fails to comply with the provisions of paragraph (1)(a) or (2), or with any requirement made under paragraph (1)(b), shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Security for charges

33. The Council may require a person who incurs or is about to incur a charge to deposit with it, or to guarantee, such sum of money as is, in the opinion of the Council, reasonable having regard to the amount or probable amount of the charge, and where such a person fails to deposit or guarantee the sum of money required the Council may detain the vessel in the harbour or goods on or in harbour premises, in respect of which the charge has been or will be incurred, until the requirement has been complied with or the charge paid.

Liens for charges

34.—(1) A person who by agreement with the Council collects charges on its behalf and who pays or gives security for the payment of charges on goods in that person's possession shall have a lien on those goods for the amount paid or security given in respect of the amount.

(2) A wharfinger or carrier who is not liable for the payment of charges may pay or by agreement with the Council give security for charges on goods in its custody, and in that event it shall have a like lien on the goods for the amount of those charges as it would have in respect of its charges for safe custody or carriage of the goods, as the case may be.

Refusal to pay charges for landing place, etc.

35. The harbour master may prevent a vessel from using a landing place or any other facilities provided by the Council, if the master of the vessel refuses to pay the charges for such use.

Exemptions from charges

36.—(1) Except in so far as may be agreed between the Council and the government department or person concerned or as may be specifically laid down by statute, nothing in any enactment authorising the Council to levy charges shall extend to authorise it to levy charges on—

(a) a vessel—

(i) belonging to or in the service of His Majesty or any member of the Royal Family;

(ii) in the service of the Commissioners of Customs and Excise and not carrying goods for reward;

(iii) in the service of the Commissioners of Northern Lighthouses and not carrying goods for reward; or

(iv) belonging to or used by the lifeboat service whilst employed in or in connection with the functions of that service;

(b) the Commissioners of Customs and Excise in respect of a vessel or goods under customs seizure;

(c) troops landed at the harbour premises or a person employed by the Secretary of State for Defence while in the execution of their duty; or

(d) goods or stores belonging to the Secretary of State for Defence.

(2) Officers of the Department for Transport and of the Scottish Ministers in the execution of their duty shall at all times be exempt from charges in respect of their vessels and otherwise.

(3) This Order shall not extend to subject any person to liability for charges in respect of a vessel which merely passes through the harbour limits without mooring or making use of any facilities provided by the Council.

(4) Article 36(3) does not apply in respect of vessels passing through the harbour limits to or from the railway pier.

Conditions as to payment of charges

37.—(1) Charges shall be payable subject to such terms and conditions as the Council may from time to time specify in its published list of charges.

(2) Without prejudice to the generality of paragraph (1) the terms and conditions may prescribe the time when a charge falls due for payment and may require such information to be given to the Council by the owner or master of a vessel or a person using a service or facility of the Council as the Council may require in connection with the assessment or collection of a charge.

Reserve funds

38.—(1) If in respect of any financial year the moneys received by the Council on account of the revenue of the harbour undertaking exceed the moneys expended or applied by it in respect thereof, the Council may in respect of that year carry to the credit of a reserve fund in respect of the harbour undertaking such a sum as it considers reasonable not exceeding the amount of such excess.

(2) Moneys for the time being standing to the credit of the reserve fund may be invested in any securities in which officers are for the time being authorised to invest moneys including debenture stock or other security created by the Council.

(3) Any reserve fund provided under this article may be applied—

(a) in making good to the regional rate fund any deficiency at any time arising in the income of the Council from the harbour undertaking;

(b) in meeting any extraordinary claim or demand at any time arising against the Council in respect of the harbour undertaking;

(c) in defraying any expenditure in connection with the harbour undertaking for which capital is properly applicable or in providing money for repayment of loans;

(d) in defraying expenditure to be incurred from time to time in repairing, maintaining, replacing and renewing buildings, works, plant, vessels, equipment or articles forming part of the harbour undertaking; or

(e) for any purpose which in the opinion of the Council is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea to or from the harbour.

(4) The Council may exercise the powers of this article so as to provide a combined reserve fund in respect both of the harbour undertaking and any other similar undertaking relating to any other harbour in respect of which the Council is the harbour authority, and the foregoing provisions of

this article as to a reserve fund shall apply with all necessary modifications to any such combined reserve fund.

(5) Any monies held in any combined reserve fund referred to in paragraph 4 may be applied for the purposes of any of the Council's harbour undertakings.

PART 5

Miscellaneous

Saving for Commissioners of Northern Lighthouses

39. Nothing in this Order shall prejudice or derogate from any of the rights, duties or privileges of the Commissioners of Northern Lighthouses.

Saving for CMAL and ferry operator

40.—(1) Nothing in this order shall prejudice or derogate from any of the rights, duties, or privileges of CMAL conferred on CMAL by any enactment, including one of local application.

(2) Where any exercise by the Council of its powers under article 5 (power to maintain etc. the harbour), article 9 (power to dredge), article 19 (byelaws) or article 21 (general directions to vessels) is likely to impact materially on the regular operations of CMAL or the ferry operator within the harbour limits in connection with the operation of the relevant ferry services, within the harbour limits, the Council shall, prior to exercising such powers, consult with CMAL and the ferry operator and shall have due regard to any representations made by CMAL and/or the ferry operator.

Crown rights

41.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular and without prejudice to that generality, nothing in this Order authorises the Council to take, use, enter upon or in any manner interfere with any land or any rights of whatsoever description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

(a) belonging to His Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of Crown Estate Scotland;

(b) belonging to His Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having management of that land or (as the case may be) the relevant person; or

(c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and shall be deemed to have been given in writing where it is sent electronically.

Repeals and revocations

42. The enactments mentioned in the first and second columns of the Schedule are repealed or revoked to the extent specified in the third column of that Schedule.

FIONA BROWN
A member of the staff of the Scottish Ministers

St Andrew's House,
Edinburgh
22nd October 2026

SCHEDULE

Article 42

Repeals

Number	*Short title*	*Extent of repeal*
c. 51	Pier and Harbour Orders Confirmation Act 1862	The entirety of the Oban Harbour Order, 1862 (contained within the Schedule to the Act).
c. 93	Pier and Harbour Orders Confirmation Act 1864	Section 4 and the entirety of the Oban Pier and Harbour Order, 1864 (contained within the Schedule to the Act).
c. 167	Callander and Oban Railway Act 1878	Sections 40, 41 and 42 of the Act.
c. 177	Piers and Harbour Orders Confirmation (No. 5) Act, 1896	The entirety of the Oban Piers Order 1896 (contained within the Schedule to the Act)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order updates the existing legislation for Oban harbour in line with the current needs of Argyll and Bute Council as the harbour authority for Oban harbour and Oban harbour users from the date it comes into force.

The Order defines the harbour limits and confers updated powers on the Council, including powers to lease and powers as regards the making of byelaws and issuing of general and special directions.

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